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COMMISSION REGULATION (EC) No 1554/2001

of 30 July 2001

laying down detailed rules for the application of Council Regulation (EC) No 1260/2001 as regards marketing sugar produced in the French overseas departments and equalising the price conditions with preferential raw sugar

(OJ L 205, 31.7.2001, p. 18)

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laying down detailed rules for the application of Council Regulation (EC) No 1260/2001 as regards marketing sugar produced in the French overseas departments and equalising the price conditions with preferential raw sugar

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Regulation (EC) No 1260/2001 of 19 June 2001 on the common organisation of the markets in the sugar sector [1], and in particular Article 7(5) thereof,

Whereas:

(1) Article 7(4) of Regulation (EC) No 1260/2001 provides for flat-rate Community aid for sugar produced in the French overseas departments to be marketed in the European regions of the Community. The aid is for raw sugar produced in the French overseas departments to be refined in a refinery situated in the European regions of the Community and to be transported to the European regions of the Community or, where necessary, to be stored in those departments.

(2) The aid for refining in Community refineries is intended to provide those refineries with sugar produced in the French overseas departments at the same price as preferential sugar.

(3) The sea transport costs depend principally on the size of the vessels, which in turn is determined by the depth of water in the ports of loading in the French overseas departments. Experience has shown that precisely on account of the specific features of ports, sugar is frequently transported from some of these departments to the Community in vessels with a net registered tonnage of less than 20 000 tonnes, whereas the Caribbean-United Kingdom freight element is established on the basis of vessels with a net registered tonnage of between 25 000 tonnes and 30 000 tonnes. The freight costs borne by operators may therefore be disproportionate to the freight element established on a flat-rate basis. The detailed rules for applying the flat rate amount should therefore provide for the possibility of adjusting the Caribbean-United Kingdom freight element when the size of the vessels used so warrants.

(4) Article 5(4) of Protocol 3 on ACP sugar appearing in the ACP-EC Partnership Agreement [2] stipulates that the guaranteed price refers to unpacked sugar, cif European ports of the Community, fixed for standard quality sugar. When the yield of preferential sugar differs from the yield of standard quality, the scale of increases applied is that practised in international trade, which differs from the scale provided for the same purpose under Community rules for raw sugar produced in the Community. To equalise the price conditions between the two types of raw sugar, the difference resulting from applying one or other of the two scales should be offset by a specific transaction in favour of refiners of raw sugar produced in the French overseas departments.

(5) Aid for refining is warranted only for such quantities of raw sugar originating in the French overseas departments as can be refined into white sugar in the European regions of the Community, taking account of available supplies of such sugar as regularly established in a Community supply balance for raw sugar.

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[1] OJ L 178, 30.6.2001, p. 1.
[2] OJ L 317, 15.12.2000, p. 3.

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(6) Since the producers of this sugar do not have large storage facilities in their factories, all the sugar intended for disposal to refineries in the Communities is sent directly after production for storage in port silos. These producers must therefore advance the cost of transporting the sugar from the factory to the port of loading. In recent years, the irregularity of consignments has increased the duration of this advance as the sugar has spent longer in storage in port silos, thereby increasing the burden on the producers concerned. It is therefore justifiable to grant an advance on the final payment of the aid equal to the amount of the fob component of the aid. In order to receive the advance applicants should be required to lodge a security, and the other conditions to be fulfilled in order for the advance to be paid, in particular the quantities of sugar concerned, should be laid down.

(7) Detailed rules for determining weights and sugar yields should be laid down, particularly where products of this kind are transported in bulk in the same vessel but on behalf of several producers.

(8) In general, a considerable period elapses between the date on which the sugar concerned is loaded and that on which the arrival formalities are completed enabling the competent agency to pay the aid. Provision should therefore be made for advance payments.

(9) Adequate measures should be laid down for checks on refined sugar, and refining should be defined for that purpose.

(10) The detailed rules laid down in this Regulation replace those in Commission Regulation (EEC) No 2750/86 of 3 September 1986 laying down detailed rules for the application of measures for the marketing of sugar produced in the French overseas departments and amending for the fourth time Regulation (EEC) No 3016/78 ([1]), as last amended by Regulation (EC) No 350/1999 ([2]). That Regulation should therefore be repealed.

(11) These measures should apply from the start of the 2001/02 marketing year.

(12) The measures provided for in this Regulation are in accordance with the opinion of the Management Committee for Sugar,

HAS ADOPTED THIS REGULATION:

Article 1

Flat-rate Community aid shall be granted as an intervention measure for sugar produced in the French overseas departments to be marketed in the European regions of the Community.

Article 2

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1. On application to the competent French authorities, for the 2002/03 to 2005/06 marketing years producers of the sugar referred to in Article 1 and delivered to European ports in the Community shall be granted aid made up of the following components:

(a) a flat-rate amount per tonne of sugar expressed as white sugar to cover the transport costs from the ex-factory stage to the fob port stage, fixed at:

— EUR 17 per tonne for Réunion and Martinique,

— EUR 24 per tonne for Guadeloupe;

(b) a uniform flat-rate amount to cover the sea transport costs from the fob port in overseas department stage to the cif European ports in the Community stage and the related insurance costs;

([1]) OJ L 253, 5.9.1986, p. 8.
([2]) OJ L 44, 18.2.1999, p. 8.

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(c) a flat-rate amount per 100 kilograms of raw sugar expressed as white sugar held in storage by producers at the end of each month, fixed at EUR 0,45 for Guadeloupe and at EUR 0,35 for Réunion.

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2. This flat-rate amount referred to in paragraph 1(b) shall be based on the Caribbean-United Kingdom freight element as established by the Freight Committee of the United Terminal Sugar Market Association of London and incorporated in the London daily price for sugar valid on the date on which the bill of lading for the sugar concerned is drawn up.

The amount shall be converted into euro at the conversion rate used to determine the cif price and shall be adjusted on a flat-rate basis to take account in the insurance costs of the difference between the value of the sugar on the world market and its value in the Community. The amount shall then be multiplied by a coefficient equal to 1,00 divided by the yield of the sugar concerned.

The adjusted amount shall be determined by the Commission and notified to the competent French authorities.

3. The competent French authorities may adjust the amount referred to in paragraph 1(b) on a flat-rate basis, where the actual transport costs borne by the producer exceed that amount because the vessels used have a net registered tonnage of less than 20 000 tonnes.

The adjustment for each month and each geographical area (Antilles/Reunion) shall be equivalent to an amount not exceeding the average difference recorded for bulk transport during the 12 months preceding the month of departure of the sugar from the ports in the French overseas departments between the actual freight costs for vessels with a net registered tonnage of less than 20 000 tonnes, established on the basis of bills of lading, and the Caribbean-to-United Kingdom freight element referred to in paragraph 1(b).

The adjustment may be increased by no more than 25 % where the vessels used have a net registered tonnage of less than 7 000 tonnes because of port conditions.

The competent French authorities shall notify the Commission immediately of the adjustments made, specifying in particular the number of vessels and the amounts concerned, and shall forward the relevant supporting documents.

Article 3

1. The aid referred to in Article 2 shall apply to the accepted arrival weight expressed as white sugar in accordance with the yield formula referred to in Article 4.

Where transport in bulk does not permit individual lots to be identified, the average yield of the whole cargo shall be applied to all the sugar concerned.

2. The aid referred to in Article 2 shall be paid on presentation, by the producer concerned, of:

(a) any proof recognised by the Member State concerned that the sugar concerned has entered the European regions of the Community, and

(b) the bill of lading, the analysis results and the definitive invoice.

The analyses shall be carried out at the unloading stage by lots of 250 tonnes on the whole cargo by a laboratory approved by the Member State into whose torritory the sugar has been introduced.

3. A payment in advance may be made equal to 90 % of the amount determined on the basis of the weight as stated in the provisional invoice and expressed as white sugar on the basis of a flat-rate yield of 96 %.

Applications for payment in advance shall be made by the producers concerned and shall be accompanied by the bill of lading and the provisional invoice.

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4. Without prejudice to paragraph 2, an initial advance payment may be made equal to the component of the aid referred to Article 2(1)(a), on application by the producer or producers of the raw sugar concerned. This initial advance shall be treated as a down payment on the advance provided for in paragraph 3.

The first advance on payment shall be calculated on the basis of the weight recorded in the silo at the port of loading by the competent French authorities or persons acting under their responsibility, and expressed as white sugar on the basis of a flat-rate yield of 96 %.

At the time of submission of applications as referred to in the first subparagraph, a security shall be lodged corresponding to the amount of the advance requested. The security shall be released for the quantities for which the final payment of the total aid referred to in Article 2(1)(a) and (b) is made in accordance with paragraph 1.

The applicant shall have the choice of providing the security in cash or in the form of a guarantee by an institution meeting the criteria laid down by France.

The part of the security or the security which is not released shall be forfeit for the quantity of sugar for which the corresponding obligations have not been fulfilled.

Article 4

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1. In the case of sugar as referred to in Article 1 which has been refined in a refinery in the European regions of the Community in the 2002/03 to 2005/06 marketing years, aid shall be granted to the refineries concerned for every tenth of a percent of yield in excess of 92 %, of an amount equal to 0,0387 % of the intervention price for raw sugar fixed for that period.

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2. Paragraph 1 shall apply up to a ceiling in quantity to be determined according to the regions in the Community where refining may be carried out.

The quantities referred to in the first subparagraph shall be determined in accordance with the procedure referred to in Article 42(2) of Regulation (EC) No 1260/2001 on the basis of a Community supply balance for raw sugar and for the refining of such sugar in the European regions of the Community concerned.

3. The total amount of the aid referred to in paragraph 1 shall be granted on application by the undertakings which have refined the sugar concerned to the competent authorities of the Member State in whose territory the refining took place.

Article 5

Applications for the aid referred to in Article 4 shall be accompanied by proof acceptable to the Member State concerned that the refined sugar was obtained from raw sugar produced in the French overseas departments. For this purpose, and at the request of the interested party concerned, the raw sugar concerned shall be placed under customs control or under another administrative control offering the same guarantees.

For the purpose of granting this aid ‘refining’ means the conversion of raw sugar as defined in Article 1(2)(b) of Regulation (EC) No 1260/2001 into white sugar as defined in Article 1(2)(a) of that Regulation.

Article 6

The Member States concerned shall notify the Commission, for each month, and within two months following the month concerned, of the quantities, expressed as white sugar, for which aid has been granted under Articles 2 and 4, respectively, and the amounts of aid corresponding to those quantities.

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Article 7

Regulation (EEC) No 2750/86 is hereby repealed.

Article 8

This Regulation shall enter into force on the day following its publication in the *Official Journal of the European Communities*.

It shall apply from 1 July 2001.

This Regulation shall be binding in its entirety and directly applicable in all Member States.